

AUG 03 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA S. DUDLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

UNITED STATES OF AMERICA

Case No. 7:11-cr-00072-1

v.

MEMORANDUM OPINION

RICHARD CHRIS WELCH,
Petitioner.

By: Hon. Michael F. Urbanski
United States District Judge

Richard Chris Welch, a federal inmate proceeding pro se, filed a motion seeking to vacate his conviction for conspiring to distribute marijuana. Consequently, the court construes the motion as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Court records indicate that the court already dismissed (Dkt. No. 81) a prior § 2255 motion (Dkt. No. 69) by which Petitioner could have raised the instant challenge. Thus, the § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). See, e.g., United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 3rd day of August, 2016.

/s/ Michael F. Urbanski
United States District Judge